TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1955

No. 530

UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, AFFILIATED WITH THE CONGRESS OF INDUSTRIAL ORGANIZATIONS, UAW-CIO, APPELLANT,

vs.

WISCONSIN EMPLOYMENT RELATIONS BOARD AND KOHLER CO., A WISCONSIN CORPORATION

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF WISCONSIN

FILED NOVEMBER 21, 1955

JURISDICTION NOTED JANUARY 16, 1956

SUPREME COURT OF THE UNITED STATES

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INDEX

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., FEB. 23, 1956

—7226-4

[fol. 1]

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

COMPLAINT OF KOHLER CO.—Filed April 15, 1954

The complainant above named complains that the respondents have engaged in and are engaging in unfair labor practices contrary to the provisions of Chapter 111 of the Wisconsin Statutes, and in that respect alleges:

(Formal Allegations of Identity Not Printed.) * * *

7. That respondents named in paragraph 6 above have the general control, management and direction of the affairs of respondent Local Union.

8. That since June 19, 1952, said respondent unions have been the collective bargaining agent for the production and maintenance employees of the complainant company. That a collective bargaining contract between the complainant company and the respondent unions was entered into on the 23rd day of February, 1953, which said contract expired on the 1st day of March, 1954.

9. That the complainant and the respondent unions were unable to agree on the terms of a new collective bargaining [fol. 2] contract and the respondent unions called a strike of the production and maintenance employees in complainant's factory at Kohler, Wisconsin, which said strike began on the 5th day of April, 1954.

10. That on April 5, 1954, and continuously thereafter the two respondent unions have maintained mass picket lines in front of all the entrances into complainant company's plant, main office and employment office and medical department in such a manner as to obstruct entrance into the plant, main office and employment office and medical department, and to prevent all persons from entering the plant, main office and employment office and medical department except such as the respondents voluntarily permit to enter.

That said mass picket lines have included several hundred pickets in front of said entrances, particularly at the times when complainant company's employees would normally be entering the plant for work.

That said pickets were and are so disposed as to completey block the entrance to the plant.

That respondents have uniformly refused and continue to refuse entrance to all production and maintenance employees and to all other persons except office and supervisory employees and persons having a "pass" issued by respondents and that at times even some office and supervisory employees have been refused entrance.

11. That when persons approach said mass picket line and attempt to pass therethrough the piekets close ranks [fol. 3] and mass together, locking arms at times and making it impossible for anyone to gain entrance without entering into physical conflict.

That employees approaching said mass picket line in attempts to pass therethrough are greeted with loud yells of "hold that line," "nobody gets through," "go on home, you are not going to get in, "nobody is going through this line" and others of similar import.

That female employees approaching said mass picket line have been threatened that they would have their clothes torn off if they attempted to go through the line.

12. That at numerous times and specifically on April 12, 1954, at approximately 6:40 A. M., employees of complainant company have approached the mass picket line, demanded admittance and were refused.

That employees of complainant company desiring to go to work have summoned the aid of police officers who have ordered the mass picket line to stand back and let said employees through but that the pickets refused to obey said orders and continued to block access to the plant and refuse admittance to employees desiring to go to work.

That employees of complainant company desiring to go to work have been told by sheriff's deputies to desist their attempts to cross the picket line and that to persist in attempts to cross the picket line would probably result in their getting their heads cracked or killed.

[fol. 4] 13. That on April 5, 1954, and on divers occasions since that date entrances to the complainant company's plant have been blocked by automobiles parked therein so as to prevent any passage of an automobile or other conveyance therethrough.

14. That employees of complainant company who have attempted to circumvent said picket line have been pursued, physically restrained, assaulted, threatened and beaten up.

15. That employees of complainant company who have been lawfully standing on the street across from the picket line have been accosted by groups of pickets, who have crossed the street for that purpose and ordered to join the picket line or get off the street, and threatened with violence if they did not leave the street.

That such actions are a planned course of conduct, with the intent and purpose that respondent unions' claim that none of complainant company's employees desire to go to work not be disproven by the presence on the street of large numbers of employees obviously desiring to go to work.

16. That telephone calls have been made to the homes of employees who have evidenced a desire to go to work or have succeeded in obtaining entrance to the plant threatening violence to said employees and their families unless they desisted their attempts to go to work and joined the picket line.

17. That said mass picket line has prevented persons desiring medical aid from entering the complainant company's medical department unless they obtained a "pass" signed by a union official; that persons desiring to enter [fol. 5] said medical department, including girls of high school age, have been prevented from passing through said picket line and ordered to obtain a "pass" from the union headquarters located in a tavern and dance hall located approximately one half mile from said medical department.

That employees of complainant company have been refused such a "pass" unless they joined the union and participated in the picket line.

18. That business visitors of complainant have been prevented from passing through said picket line to enter the main office of the company unless they first visited the union headquarters and obtained a "pass" signed by a union official.

19. That the above mentioned unlawful acts were done at the instance and under the direction and control of the union respondents aforesaid.

That the above mentioned individual respondents or-

dered, directed, controlled, advised, abetted or participated in the above mentioned unlawful acts.

Wherefore complainant company prays that an order may be entered by the Wisconsin Employment Relations Board requiring respondents herein to cease and desist from the unfair labor practices above set forth, and for such other and further orders as the Wisconsin Employment Relations Board may deem appropriate.

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

ANSWER TO COMPLAINT

[fol. 6] Now comes the respondents above named, by Max Raskin, their attorney, and in answer to the complaint allege as follows:

1. Allege that the complainant company is a corporation engaged in interstate commerce, and that by reason thereof the labor relations between such company and the respondent unions and their agents, and employees, are subject to the Labor Management Relations Act of 1947 and amendments thereto.

2. Allege that the Wisconsin Employment Relations Board does not have jurisdiction over the labor dispute as set forth in the complaint.

3. In further answer to the complaint, respondents admit the allegations contained in paragraphs one, two, three, four, five, six except sub-paragraph (w) thereof, seven, eight and nine.

4. That the respondents deny each and every allegation and statement of fact set forth in any and all paragraphs, sub-paragraphs and sentences, in said complaint contained, wherever found, not specifically admitted herein.

Wherefore respondents pray that the complaint be dismissed.

[fol. 7] IN CIRCUIT COURT OF SHEYBOYGAN COUNTY, WISCONSIN.

PETITION—Filed May 25, 1954

Now comes the Wisconsin Employment Relations Board, petitioner in the above entitled matter, by its attorneys, Vernon W. Thomson, Attorney General, Stewart G. Honeck, Deputy Attorney General, and Beatrice Lampert, Assistant Attorney General, and for cause of action alleges and shows to the court:

[fol. 8] 1. That the Wisconsin Employment Relations Board is and at all times mentioned herein was an administrative body created and existing pursuant to Ch. 111 of the Statutes of Wisconsin for 1947 and that L. E. Gooding is the chairman and J. E. Fitzgibbon and Morris Slavney are commissioners and members of said board.

2. That the respondent, Local Union Number 833, United Automobile Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations—UAW-CIO, is a labor organization composed of employees employed in Sheboygan County, Wisconsin; and that said respondent has its principal office and usually transacts business at 530A North 8th Street in the City of Sheboygan, Sheboygan County, Wisconsin.

3. That the respondent, United Automobile Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations—UAW-CIO, is a voluntary labor organization affiliated with the Congress of Industrial Organizations; that said respondent maintains an office at 225 E. Michigan Street, Milwaukee, Wisconsin; and that respondent, Local Union Number 833, described in the preceding paragraph, is one of its affiliates.

4. That on or about the 15th day of April, 1954, the Kohler Company, a Wisconsin corporation having its principal office in Kohler, Sheyboygan County, Wisconsin, being an employer engaging the services of employees other than independent contractors to work for hire in the Village of Kohler, Sheyboygan County, Wisconsin, in a nonexecutive [fol. 9] and nonsupervisory capacity, did file a complaint in writing with the petitioner charging the above named

respondents, their officers, agents and members with having engaged in unfair labor practices within the meaning of Sec. 111.06 of the Statutes of Wisconsin.

5. That after due notice and hearing upon said complaint, the petitioner did on the 21st day of May, 1954, make and file its decision, findings of fact, conclusions of law and interlocutory order with reference to said charges of unfair labor practice, and that a true and correct copy of said decision, findings of fact, conclusions of law and order is hereto attached, marked Exhibit A and made a part hereof.

6. That copies of said decision, findings of fact, conclusions of law and order were duly served upon the respondents above named; that said order since its issuance has been in full force and effect, and that the above named respondents have wholly failed and neglected to obey the said order since its issuance and have engaged in the conduct prohibited thereby.

7. That the respondents are continuing to engage in, promote and induce obstruction and interference with entrance to and egress from the Kohler Company premises, obstruction and interference with use of public streets, and other conduct prohibited by said order, Exhibit A; that they threaten to continue to do so; and that they have publicly stated they will not comply with said order.

8. That the petitioner has responsibility for enforcement of compliance with the provisions of Ch. 111 of the statutes [fol. 10] of the State of Wisconsin, including Sec. 111.06.

9. That the conduct of the respondents will work irreparable injury to the petitioner and to the citizens of the State of Wisconsin; will require the commencement of a multiplicity of suits; and that the petitioner has no adequate remedy at law for redress of such conduct.

10. That the petitioner has caused to be certified and filed in this court its record in the proceedings entitled "Kohler Co., a Wisconsin Corporation, Complainant, vs. United Automobile Aircraft and Agricultural Implement Workers of America, affiliated with The Congress of Industrial Organizations—UAW-CIO, et al. * * * Case III, No. 5257 Cw-213, Decision No. 3740" including all documents and papers on file in the matter, the pleadings and testimony upon which the order therein was entered and

the findings and order of the board, to which record reference is hereby made and the same is incorporated herein as if specifically set forth.

Wherefore the petitioner prays that the court enter a judgment and decree confirming and enforcing all of the provisions of the interlocutory order herein referred to, Exhibit A; for appropriate temporary relief and restraining order preventing the respondents during the pendency of this proceeding from engaging in, promoting and inducing the conduct prohibited by said order; and for such other relief as the facts and circumstances may warrant.

Dated: May 25, 1954.

[fol. 11] EXHIBIT "A" TO PETITION

Findings of Fact, Conclusions of Law and Interlocutory Order of Wisconsin Employment Relations Board

The above entitled matter having come on for hearing before the Wisconsin Employment Relations Board on the 4th day of May, 1954, and having been adjourned and rescheduled on the 12th day of May, 1954, and testimony having been taken on May 12, 13, 17, 18, and 19, 1954, the full Board being present and after considering the testimony, the arguments of counsel and being fully advised the Board makes the following Findings of Fact, Conclusions of Law, and Interlocutory Order.

FINDINGS OF FACT

1. That the officers, members and agents of Local Union No. 833, United Automobile Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations have engaged and are now engaging in mass picketing at the entrance to the plant of the Kohler Company at the village of Kohler, Wisconsin, and have been assisted and advised in such activities by Frank J. Saforske, Robert Burkhart, Jess Ferazza, Donald Rand, James Fiore, Frank Walleck and Raymond Majerus, International Representatives of the United Automobile Aircraft and Agricultural Implement Workers of America.

2. That the officers, members and agents of the Respondent union have attempted by force, threats, intimidation and by massing pickets at the various entrances to the Kohler [fol. 12] Company plant in Kohler, Wisconsin, to prevent the lawful work or employment by persons desiring to work for the Kohler Company.

3. That the officers, members and agents of the Respondent union by gathering in large numbers and mass formation around the various entrances to the Kohler Company and obstructing and interfering with the free use of the public streets in the village of Kohler, Wisconsin, particularly with Industrial Road.

4. That officers, members and agents of the Respondent Union have forcefully taken into custody persons attempting to enter the plant of the Kohler Company, forced them to accompany such officers members and agents to the strike headquarters of the Respondent Union and prevented them from pursuing their lawful work and employment. That in addition officers, members and agents of the Respondent Union have followed the cars of persons attempting to enter or leave the Kohler Company plant and picketed their homes and have threatened the persons desiring to work with physical injury.

Upon the basis of the above and foregoing Findings of Fact, the Board makes the following:

Conclusions of Law

That the officers, members and agents of Local Union No. 833, United Automobile Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, and Frank J. Sahorske, Robert Burkart, Jess Ferrazza, Donald Rand, James Fiore, [fol. 13] Frank Walleck, and Raymond Majerus as International Representatives, representing the United Automobile Aircraft and Agricultural Implement Workers of America, have violated Section 111.06 (2) (a) of the Wisconsin Statutes by picketing the domicile of persons desiring to work at the Kohler Company, and Section 111.06 (2) (f) of the Wisconsin Statutes by hindering and preventing persons desiring to be employed by the Kohler

Company by means of massed picketing and by means of obstructing and interfering with entrance to and egress from the plant of the Kohler Company and by obstructing and interfering with the free and uninterrupted use of the public roads, streets and highways.

Upon the basis of the above and foregoing Findings of Fact, and Conclusions of Law, the Board makes the following:

ORDER

It is ordered that the Respondent Unions, their officers, members and agents immediately cease and desist from

1. Coercing and intimidating any person desiring to be employed by the Kohler Company in the enjoyment of his legal rights, intimidating his family, picketing his domicile, or injuring the person or property of such persons or his employee.

2. Hindering or preventing by mass picketing, threats, intimidation, force or coercion of any kind the pursuit of lawful work or employment by any person desirous of being employed by the Kohler Company.

3. Obstructing or interfering in any way with entrance [fol. 14] to and egress from the premises of the Kohler Company.

4. Obstructing or interfering with the free and uninterrupted use of public roads, streets, highways, railways or private drives leading to the premises of the Kohler Company.

It is further ordered that the Respondent Unions, their officers, members and agents take the following affirmative action:

1. Limit the number of pickets around the Kohler Company premises to a total of not more than 200, with not more than 25 at any one entrance. Such pickets are to march in single file and to at all times maintain a space of at least 20 feet in width at each entrance to the Kohler Company premises over which pickets will not pass and on which persons either on foot or in conveyance may freely enter or leave the premises without interference.

IN CIRCUIT COURT OF SHEBOYGAN COUNTY

ANSWER TO PETITION FOR ENFORCEMENT

Now come the respondents above named, by their attorneys Max Raskin and David Rabinovitz, and in answer to the Petition for Enforcement heretofore filed, allege as follows:

1. Admit the allegations contained in paragraph 1.

2. Admit the allegations contained by paragraph 2.

[fol. 15] 3. Admit the allegations contained in paragraph 3.

4. Admit the allegations contained in paragraph 4.

5. Admit the allegations contained in paragraph 5.

6. Admit that copies of the decision, findings of fact, conclusions of law and order were duly served upon the respondents; deny that the respondents have wholly failed and neglected to obey the said order since its issuance and deny further that they have engaged in the conduct prohibited thereby.

7. As to the allegations contained in paragraph 7, respondents deny that they are continuing to engage in, promote and induce obstruction and interference with entrance to and egress from the Kohler Company premises; deny that they are engaging in the obstruction and interference with the use of public streets; deny that they are continuing other conduct prohibited by said order, Exhibit A; deny that they threaten to continue to do so; deny that they have publicly stated they will not comply with said order.

8. Admit the allegations contained in paragraph 8.

9. Deny the allegations contained in paragraph 9.

10. Respondents have no information with respect to the allegations contained in paragraph 10, and therefore put petitioner to its proof.

11. Deny each and every allegation not hereinbefore specifically admitted.

[fol. 16] In further answer to the petition for enforcement respondents set forth as follows:

(a) That the respondents are labor organizations representing the employees in the production and maintenance

departments of the Kohler Company and that such labor organizations were duly certified to represent such employees for collective bargaining by the National Labor Relations Board, pursuant to the Labor-Management Relations Act of 1947 and the amendments thereto.

(b) That the Kohler Company is a corporation organized under the laws of the State of Wisconsin, and is engaged in the manufacture and sale of plumbing fixtures, heating equipment, electrical plants, air cooled engines, and precision parts, which products are distributed throughout the United States, that it is engaged in commerce and trade affecting commerce, as defined in Sections 2 (6) and 2 (7) of the Labor Management Relations Act of 1947.

(d) That the Labor Management Relations Act of 1947, adopted by the Congress, is a law regulating commerce as set forth in Section 101 and Section 204 of the Act as amended.

(d) That on the 23rd day of February, 1953, the said respondents and the Kohler Company entered into a labor contract, which contract expired on the 1st day of March 1954.

(e) That prior to January 1, 1954, the respondents terminated the labor contract as of March 1, 1954, pursuant to the requirements of Section 8 (d) of the Labor Management Relations Act of 1947, and that thereafter [fol. 17] the Federal Mediation and Conciliation Service, acting under the Notice of Termination of Contract, intervened and proceeded to assist in the negotiations of a contract following the termination date aforesaid.

(f) That on or about April 5, 1954, the respondent unions because of the failure of the Kohler Company to compromise and agree upon wages, arbitration, pensions, seniority and other working conditions, left the employment of the company individually and in concert and in agreement with others, and thereafter commenced to peacefully picket the company premises, and that such peaceful picketing is presently in progress.

(g) That on or about the 16th day of April, 1954, the Kohler Company filed with the Wisconsin Employment Relations Board a complaint alleging that the respondents were guilty of unfair labor practices.

(h) That the respondents herein made answer thereto and alleged that the Wisconsin Employment Relations Board, the petitioner herein, is without jurisdiction to hear and determine the issues, for the reason that the government of the United States through the Labor Management Relations Act of 1947, *be* amended, preempted the field of Labor-Management relations.

(i) That Chapter 111, and particularly that portion thereof which deals with unfair labor practices, to-wit, Section 111.06, which is the basis for the order sought to be enforced herein, is in direct conflict with the Labor Management Relations Act of 1947, as amended, and that such labor management relations are under the exclusive [fol. 18] jurisdiction of the National Labor Relations Board, as provided in the Act, particularly, Sections 10(a), 8(a) and 8(b).

(j) In further answer to the Petition for Enforcement, the respondents allege that they have complied with the order issued by the Board and specifically with that part of the order which requires affirmative action on their behalf.

(k) The respondents further allege that this court has no jurisdiction to enforce the order (1) because the board did not have jurisdiction to enter the order, by reason of the preemption of the subject by the Congress of the United States; (2) respondents deny that they or any person on their behalf has in any wise failed or neglected to obey the order of the Board, and (3) deny that the findings of fact made by the Board are supported by credible and competent evidence in the record.

Wherefore respondents demand that the Petition for Enforcement and injunction, by the Wisconsin Employment Relations Board, be dismissed.

Max Raskin and David Rabinovitz, Attorneys for Respondents.

Duly sworn to by Max Raskin, jurat omitted in printing.

[fol. 19] IN CIRCUIT COURT OF SHEBOYGAN COUNTY

OPINION AND DECISION OF THE CIRCUIT COURT—August 30, 1954

Two separate proceedings are before the Court under two different titles. The first filed was initiated by a petition filed by the Wisconsin Employment Relations Board against two unions and their officers, members of the union, and several named individual respondents. The second proceedings is upon the petition of both unions against the Wisconsin Employment Relations Board and the Kohler Company as respondents, seeking a review of the proceedings from which the order emanated and was filed, and asking for a reversal of the order and a dismissal of the complaint of the Kohler Company. This memorandum decision, of course, must relate to both proceedings.

I believe that it will be agreed by anyone who has made even a casual study of Chapter 111 of the Wisconsin Statutes and the cases that have construed that Act during the years, that the inquiry before this Court in the first proceedings, asking for a judgment of enforcement of the order of the Board, gives to the Court a very limited area and the inquiry is very confined.

This Court sits now as an appellate court to review the proceedings had before the Board and to pass upon the question of whether errors of law were committed by the Board in exercising the jurisdiction that the Statutes vest the Board with. The Court is not authorized in these proceedings to take testimony. The Court could, upon timely application and notice, order that more testi- [fol. 20] mony or additional evidence be taken by the Board. I agree with counsel for the Union that no formal motion in that regard is necessary, but the stubborn fact is no application to do that, that is, to remand the proceedings back to the Board for the taking of additional testimony, has been made and the desire is stated only categorically and casually in the arguments of counsel in these proceedings, unless it be considered that the petition of the two unions to review necessarily encompasses the request that it be remanded for further testimony.

The Court has made a very careful study of the record in both proceedings, that is, to say that all the pleadings have been read and studied and certain portions of it read a second time. The Court did not, because of a peculiar circumstance, have time to examine the some 154 or 155 exhibits that were introduced at the hearings before the Board, which consumed many days.

I personally regret that the inquiry before this Court in these proceedings is so narrow. I would much prefer if this Court had authority in law to apply equitable principles as would be the situation if the complainant here had seen fit to invoke the equity jurisdiction of this Court in seeking a temporary injunction and eventually a permanent injunction. Reasonable minds may differ and disinterested, impartial persons may not agree as to the seriousness of the acts which the Board has found constitute unfair labor practice. This Court has no right to make inquiry as to the fairness or unfairness of the original demands of the Union as made early in the year, February, 1954, or maybe preceding the expiration of [fol. 21] the contract in February, 1954, maybe the demands were in some form made in January of 1954. The Court has no right to comment upon the soundness of the Company's position as to the demands of the two unions. The wisdom or lack of wisdom in calling the strike is not for this Court to decide. This Court has no right now to even make any observations as to the realistic views or attitudes of either the Company, who is the complainant here, or the two unions, nor in any type of critical language make any type of findings, even though it be dicta, as to the character and the tempo and the type of settlement negotiations. The Court has no right to pass upon the good faith or lack of good faith of any parties to this dispute, even though the Court may have its own opinion with reference to all of these subjects.

The principal contention of the two unions is that the Labor Board and this Court lack jurisdiction in the matter now before the Court in a formal manner. The lack of jurisdiction as claimed by the respondent unions is based upon the claim that the National Labor Relations Act

of 1947, the Congressional enactment, has pre-empted the field of labor controversies, employer and employee management and that there is no field left for state agencies like the Wisconsin Employment Relations Board and the Wisconsin courts to act with jurisdiction. With this contention I must respectfully disagree with the unions that are parties to these proceedings.

It is perfectly clear that proper state agencies, in which authority is given by statutes, and the courts that have certain inherent powers, have a right even in the labor [fol. 22] controversy field where unfair labor practices are charged, that state administrative boards like the plaintiff in these actions or the petitioner in this one action, have a right and an area based upon state's rights, as distinguished from the rights under the Constitution that the Federal Government has preempted unto itself.

It would seem most unreasonable and illogical if any court should hold that a state court of record would be impotent to restrain the commission of acts that are in themselves illegal per se. There is no inherent right on the part of individual members of a union or the union as an organization or its officers in directing it to engage in mass picketing. There is no inherent right on the part of any of the members of unions to intimidate, to threaten, to assault or to unlawfully interfere with the liberties of any person, so it would seem to me that the complaint is groundless when it is exerted on the proposition that those types of acts should not be restrained.

There is one point made by counsel for the Unions that has given me pause and has concerned me during these arguments, to which I listened most attentively. The fact is the question arose in my mind independent of counsel's argument but counsel's logical approach to the question further agitated my thinking and made me less sure of a position that could be taken with reference to it, which is the position taken by the Labor Relations Board. That point is that something must transpire after the filing of the order, which was based upon findings of fact and conclusions of law relating to the testimony taken at the various hearings, and that ~~some~~ evidence must be [fol. 23] produced before this Court or something in a

formal way pointed out in these proceedings that shows that at a particular time after the filing of the order that the Wisconsin Employment Relations Board could come into court and ask for an enforcement decree of the order that it had previously filed. I believe the answer to that claim, as good as it sounds, is found right in the statute itself and if you are to give full and ordinary meaning to the use of words, the Court must disagree with that contention, with the others.

Sub-section (7) of Section 111.07 says:

"If any person fails or neglects to obey an order of the board while the same is in effect the board may petition the circuit court of the county wherein such person resides or usually transacts business for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court its record in the proceedings, including all documents and papers on file in the matter, the pleadings and testimony upon which such order was entered, and the findings and order of the board. Upon such filing the board shall cause notice thereof to be served upon such person, * * * and thereupon the court shall have jurisdiction of the proceedings and of the question determined therein."

That statute is purely a directory statute. The plaintiff, Wisconsin Employment Relations Board, is an administrative body invested with certain powers, authority and duties and the presumption is that the members of that Board, being public officers, acted within the law and [fol. 24] within their jurisdiction and that they had not only the right but the duty to exercise a discretion as to whether enforcement proceedings should be initiated or not. The statute does not define or declare the type of investigation to be made by the Board after the order is filed, which would entitle them or require them, that is, the Board, to initiate the proceedings for enforcement of the order. This record is sufficient unto itself to show that the Board did not violate its discretion and that its discretion was exercised in favor of instituting these proceedings.

In follows from what has been said that the petition for review by the two Unions named as petitioners against the

Wisconsin Employment Relations Board and the Kohler Company, asking for a review of the order and a reversal of the order and a dismissal of the complaint, be and hereby is dismissed.

It follows, of course, from what has been said that the plaintiff, Wisconsin Employment Relations Board, in its enforcement proceedings against the named respondents, shall have judgment of enforcement of the order filed by the Wisconsin Employment Relations Board on May 21, 1954, without modification and the order is in all things confirmed.

Dated: August 30, 1954.

IN CIRCUIT COURT OF SHEBOYGAN COUNTY

JUDGMENT—September 1, 1954

The above entitled matter having come on for hearing on the 30th day of August, 1954 before the court without a jury on the petition of the Wisconsin Employment Rela- [fol. 25] tions Board pursuant to Sec. 111.7 (4) and (7) of the Wisconsin Statutes for enforcement of a certain interlocutory order of said board, Beatrice Lampert appearing for the Wisconsin Employment Relations Board, Max Raskin and David Rabinovitz appearing for the respondents, and Lyman Congor and Lucius P. Chase appearing for the intervenor, Kohler Company, and the court having considered the arguments and briefs of counsel, and having reviewed the record returned by said board and being fully apprised in the premises, and having on the said date issued from the bench its decision and directions for judgment, Now, Therefore,

It Is Ordered, Adjudged and Decreed that the interlocutory order of the Wisconsin Employment Relations Board entered May 21, 1954 in the matter of "Kohler Co., a Wisconsin Corporation, Complainant, vs. United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations—UAW-CIO, Harvey Kitzman, Frank J. Sahorski, Robert Burkhart, Jess Ferrazza, Donald Rand, James Fiore, Frank Walleck, Raymond Majerus, Local Union Number 833,

United Automobile Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations—UAW-CIO, Allan J. Graskamp, Arthur Rauer, E. H. Kohlhagen, John J. Stieber, Bernard Majerus, Elmer H. Gross, Kenneth Nitsche, Curtiss R. Nack, Leo J. Prepster, Leo J. Breirather, Elmer A. Oskey, Gordon Majerus, Kenneth G. Klein, William E. Rawling, Edward C. Kalupa, John Konec, John M. Martin, Mattie [fol. 26] Marchiando, Arbor L. Brewer, Peter J. Gasser, Jr., Nick Vrekovic, Franklyn S. Schroeder, David Rabinovitz, John Doe and other persons unknown, respondents, Case III, No. 5257 Cw-213, Decision No. 3740, be and the same is hereby confirmed and enforced, the court reserving jurisdiction to make such further order or judgment in the premises as may be necessary to give full force and effect to the order of the board and the enforcement thereof, on the evidence in the record or on the taking of such further evidence as appears to the court to be necessary, the present judgment and decree of the court to be deemed interlocutory as to those matters that may call for or require further action on the part of the court.

It Is Further Ordered, Adjudged and Decreed that the respondents United Automobile Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations—UAW-CIO, Local Union Number 833, United Automobile Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations—UAW-CIO, their officers, members and agents:

A. Immediately cease and desist from:

1. Coercing and intimidating any person desiring to be employed by the Kohler Company in the enjoyment of his legal rights, intimidating his family, picketing his domicile, or injuring the person or property of such persons or his employe.

2. Hindering or preventing by mass picketing, threats, intimidation, force or coercion of any kind [fol. 26a] the pursuit of lawful work or employment by any person desirous of being employed by the Kohler Company.

3. Obstructing or interfering in any way with entrance to and egress from the premises of the Kohler Company.

4. Obstructing or interfering with the free and uninterrupted use of public roads, streets, highways, railways or private drives leading to the premises of the Kohler Company.

B. Take the following affirmative action:

1. Limit the number of pickets around the Kohler Company premises to a total or not more than 200, with not more than 25 at any one entrance. Such pickets are to march single file and to at all times maintain a space at least 20 feet in width at each entrance to the Kohler Company premises over which pickets will not pass and on which persons either on foot or in conveyance may freely enter or leave the premises without interference.

Dated September 1, 1954.

[fol. 27] IN SUPREME COURT OF WISCONSIN

No. 240

WISCONSIN EMPLOYMENT RELATIONS BOARD, Respondent

vs.

UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, Affiliated with the Congress of Industrial Organizations, UAW CIO, Local Union Number 833, United Automobile, Aircraft and Agricultural Implement Workers of America, Affiliated with the Congress of Industrial Organizations, UAW CIO, Their Officers, Members and Agents, Appellants

JUDGMENT—May 3, 1955.

This cause came on to be heard on appeal from the judgment of the Circuit Court of Sheboygan County and was argued by counsel. On consideration whereof, it is now

here ordered and adjudged by this Court, that the judgment of the Circuit Court of Sheboygan County, in this cause, be, and the same is hereby affirmed.

[fol. 28] IN SUPREME COURT OF WISCONSIN

No. 277

UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, Affiliated in the Congress of Industrial Organizations, UAW CIO, Harvey Kitzman, Frank J. Sahorske, Robert Burkart, Jess Ferrazza, Donald Rand, James Fiore, Frank Walleck, Raymond Majerus; Local Union Number 833, United Automobile, Aircraft and Agricultural Implement Workers of America, Affiliated with the Congress of Industrial Organizations, UAW CIO, Allan J. Graskamp, Arthur Bauer, E. H. Kohlhagen, John J. Steiber, Bernard Majerus, Elmer H. Gross, Kenneth Nitsche, Curtiss R. Nack, Leo J. Prepster, Leo J. Brierather, Elmer A. Oskey, Gordon Majerus, Kenneth G. Klein, William E. Rawling, Edward C. Kalupa, John Konec, John M. Martin, Mattie Marchiando, Arbor J. Brewer, Peter J. Gasser, Jr., Nick Vrckovic, Franklyn S. Schroeder, David Rabinovitz and John Doe and Other Persons Unknown, Appellants,

vs.

WISCONSIN EMPLOYMENT RELATIONS BOARD AND KOHLER COMPANY, a Wisconsin Corporation, Respondents

JUDGMENT—May 3, 1955

This cause came on to be heard on appeal from the judgment of the Circuit Court of Sheboygan County and was argued by counsel. On consideration whereof, it is now here ordered and adjudged by this Court, that the judgment of the Circuit Court of Sheboygan County, in this cause, be, and the same is hereby, affirmed.

[fol. 29] [File endorsement omitted]

IN SUPREME COURT OF WISCONSIN, AUGUST TERM, 1954

Nos. 240 and 277

WISCONSIN EMPLOYMENT RELATIONS BOARD, Respondent,

v.

UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS, ETC., Appellants

UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, ETC., et al., Appellants

v.

WISCONSIN EMPLOYMENT RELATIONS BOARD, et al., Respondents

OPINION—May 3, 1955

Appeals from Two Judgments of the Circuit Court for Sheboygan County: Arold F. Murphy, Circuit Judge, Presiding. Affirmed

A judgment entered September 1, 1954, enforced an order of the Wisconsin Employment Relations Board, dated May 21, 1954. A judgment entered September 9, 1954 dismissed appellants' petition for a review of the same order. The appeals from the respective judgments have been consolidated.

[fol. 30] The Kohler Company produces and markets articles in interstate commerce. Local Union 833 UAW-CIO is the exclusive bargaining agent of the production workers of the Kohler Company, duly certified to be such by the National Labor Relations Board. The contract between the company and the union expired March 1, 1954, and negotiations between the parties for a new contract, in which the Federal Mediation and Conciliation Service participated proved fruitless. The production employes began a strike against the company April 5, 1954. At that time the National Labor Relations Board had under consideration a complaint by the union charging the company with the com-

mission of certain unfair labor practices in 1951 and 1952. The Board decided these adversely to the company on April 12, 1954, the company appealed to the federal courts and that appeal is pending. The National Board also has under consideration another complaint charging the company with other unfair labor practices in which, as yet, it has not reached a decision.

As soon as the strike began, the unions, through their officers and members, established a picket line around the company's premises and by various means dissuaded or prevented persons wishing to work from entering the plant. The company complained of the conduct of the pickets to the Wisconsin Employment Relations Board, alleging that the organizations and individuals named in the complaint were thereby guilty of unfair labor practices. That Board conducted a hearing on the complaint and on May 21, 1954 made findings of fact that the officers, members and agents of the union and certain named individuals had been and were then (1) engaged in mass picketing at the entrance to the plant of the Kohler Company; (2) that they have attempted to prevent the lawful work or employment of per- [fol. 31] sons desiring to work for the Kohler Company by force, threats and intimidation and by massing pickets at the plant entrances; (3) that the large numbers and mass formations around the entrances obstruct and interfere with the free use of public streets; and (4) that the officers, members and agents of the union have forcefully taken into custody persons attempting to enter the plant of the Kohler Company, forced them to accompany such officers, members and agents to the strike headquarters of the respondent union and prevented them from pursuing their lawful work and employment. That in addition officers, members and agents of the respondent union have followed the cars of persons attempting to enter or leave the Kohler Company plant and picketed their homes and have threatened the persons desiring to work with physical injury.

Upon these findings of fact the Board made its conclusions of law declaring that the officers, members and agents of the local and international unions and the named individuals have violated sec. 111.06 (2) (a) and (f), Stats., by the conduct described in the findings of fact, and the Board then issued its order commanding the organizations

and natural persons to cease and desist from such conduct. The Board's order also directed the following affirmative action:

"It Is Further Ordered that the Respondent Unions, their officers, members and agents take the following affirmative action

"1. Limit the number of pickets around the Kohler Company premises to a total of not more than 200, with not more than 25 at any one entrance. Such pickets are to march in single file and to at all times maintain a space at least 20 feet in width at each entrance to the Kohler Company premises over which pickets will not pass and on which persons either on foot or in conveyance may freely enter or leave the premises without interference."

[fol. 32] The statutory provisions which the Employment Relations Board concluded had been violated read:

"111.06 (2) It shall be an unfair labor practice for an employe individually or in concert with others:

"(a) To coerce or intimidate an employe in the enjoyment of his legal rights, including those guaranteed in section 111.04, or to intimidate his family, picket his domicile, or injure the person or property of such employe or his family.

. . . . . .

"(f) To hinder or prevent, by mass picketing, threats, intimidation, force or coercion of any kind the pursuit of any lawful work or employment, or to obstruct or interfere with entrance to or egress from any place of employment, or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance."

The Board's order was entered May 21, 1954. On May 25, 1954 the Board petitioned the circuit court alleging that the organizations and persons affected by its order had refused to obey it but were continuing to engage in the conduct which the order prohibited. Other jurisdictional facts were alleged in the petition and the Board demanded a judgment and decree of enforcement. The unions and natural persons responded by denying their violation of

the Board's order and, further, alleged that the Company is engaged in interstate commerce, that the Wisconsin Employment Relations Board is without jurisdiction to hear and determine the issues which it here attempts to determine because the field of labor-management relations with which the Board attempts to deal has been preempted by Congress through the enactment of the Labor-Management Relations Act of 1947, as amended, (the Taft-Hartley Act) and jurisdiction in the premises exists exclusively in the National Labor Relations Board. The answer also alleged that the circuit court was without jurisdiction to enforce the Wisconsin Board's order because of the federal preemption of the field; and it denied that the findings of [Vol. 33] fact made by the Wisconsin Board were supported by credible competent evidence.

The circuit court rendered a written decision August 30, 1954 determining each issue favorably to the petition of the Wisconsin Employment Relations Board and on September 1, 1954 it entered judgment confirming the order of the Board and, by an injunction, decreed enforcement of that order. The injunction directed that the Union, their officers, members and agents

"A. Immediately cease and desist from:

"1. Coercing and intimidating any person desiring to be employed by the Kohler Company in the enjoyment of his legal rights, intimidating his family, picketing his domicile, or injuring the person or property of such persons or his employe.

"2. Hindering or preventing by mass picketing, threats, intimidation, force or coercion of any kind the pursuit of lawful work or employment by any person desirous of being employed by the Kohler Company.

"3. Obstructing or interfering in any way with entrance to and egress from the premises of the Kohler Company.

"4. Obstructing or interfering with the free and uninterrupted use of public roads, streets, highways, railways or private drives leading to the premises of the Kohler Company.

"B. Take the following affirmative action:

"1. Limit the number of pickets around the Kohler Company premises to a total of not more than 200, with not more than 25 at any one entrance. Such pickets are to march in single file and to at all times maintain a space at least 20 feet in width at each entrance to the Kohler Company premises over which pickets will not pass and on which persons either on foot or in conveyance may freely enter or leave the premises without interference."

The unions and individuals enjoined have appealed from the judgment.

[fol. 34] BROWN, J. The conduct which the Wisconsin Employment Relations Board found to be a violation of sec. 111.06, Stats., as unfair labor practices, is virtually the same conduct as that which it had found to be a similar violation in *Allen-Bradley Local 1111 v. Wisconsin E. R. Board* (1941), 237 Wis. 164, 295 N.W. 791. The present order and injunction are essentially the same as those issued by the Board and the court in the *Allen-Bradley Case*. The principal attack on it then, like the attack on the present order, was made on the ground that federal labor legislation has preempted the field and the National Labor Relations Board has exclusive jurisdiction over this controversy, which grows out of and affects labor relations. The enforcement order issued by the circuit court in the *Allen-Bradley Case* in all substantial particulars is the same as the one issued by the circuit court in the case at bar. We sustained the circuit court and the Board on such jurisdictional questions and on their exercise of the jurisdiction and we were affirmed by the Supreme Court of the United States in *Allen-Bradley Local v. Board*, 315 U.S. 740, 86 L. Ed. 1154.

As the facts of the present matter so closely parallel the *Allen-Bradley* facts there would be little cause to do more than affirm the judgment of the circuit court on the authority of *Allen-Bradley* except for a distinction to which appellants call attention, namely, that the Federal Labor Act has been amended since, in *Allen-Bradley*, the United States Supreme Court held that it did not deprive the state of jurisdiction under such circumstances. Appellants'

argument is that the United States court was then construing the National Labor Relations Act (the Wagner Act), which concerned itself only with unfair labor prac- [fol. 35] tices on the part of employers and thus left employes' practices to be controlled by the states; but that Act was amended in 1947 by the National Labor-Management Relations Act (the Taft-Hartley Act), which does define and discipline unfair labor practices by employes. Therefore, appellants assert, even though *Allen-Bradley* may have been right in its day, the present legislation, by bringing employes' labor practices within its scope, ousts state control and confers exclusive jurisdiction over them in the National Labor Relations Board.

The authoritative interpretation of federal statutes rests in the federal courts and their highest court does not agree with appellants' contention that the Taft-Hartley Act has taken from the states jurisdiction over such manifestations of labor relations as mass picketing, intimidation and obstruction of streets. In cases arising under Taft-Hartley the United States Supreme Court continues to cite *Allen-Bradley* to illustrate the circumstances in which the state authority may still operate. Thus, in *International Union v. Wisconsin Employment Relations Board* (1949), 336 U.S. 245, 93 L. Ed. 654, which was first before this court and is reported in 250 Wis. 550 (the Briggs & Stratton case), the state court enjoined recurrent and unannounced work stoppages designed to put pressure on the employer. The injunction was issued while the Wagner Act was in effect but the restraint continued after that act was superseded by Taft-Hartley. The Supreme Court of the United States therefore declared that it considered the state action in relation to both Federal Acts. And it said:

". . . . However, as to coercive tactics in labor controversies, we have said of the National Labor Relations Act what is equally true of the Labor Management Relations Act of 1947, that 'Congress designedly left open an area for state control' and that the 'intention of Congress to exclude States from exercising their police power must be [fol. 36] clearly manifested.' (Citing *Allen-Bradley*) We therefore turn to its legislation for evidence that Congress

has clearly manifested an exclusion of the state power sought to be exercised in this case."

So turning, the court found no such evidence and it said:

". . . . while the Federal Board is empowered to forbid a strike, when and because its purpose is one that the Federal Act made illegal, it has been given no power to forbid one because its method is illegal—even if the illegality were to consist of actual or threatened violence to persons or destruction of property. Policing of such conduct is left wholly to the states. . . .

"It seems clear to us that this case falls within the rule announced in *Allen-Bradley*. . . ."

More recently the court has declared the same principle, crediting it to the same source. Thus in *Garner v. Teamsters Union* (1953), 346 U.S. 485, 98 L. Ed. 228, the employer sought to enjoin peaceful picketing by state action. The United States Supreme Court, distinguishing the situation from that in *Allen-Bradley*, said: (98 L. Ed. 228, 238)

"This is not an instance of injurious conduct which the National Labor Relations Board is without express power to prevent and which therefore either is 'governable by the State or it is entirely ungoverned.' In such cases we have declined to find an implied exclusion of state powers. International Union, U.A.W. v. Wisconsin Employment Relations Board, 336 U.S. 245, 254, 93 L. ed. 651, 663, 69 S. Ct. 516. *Nor is this a case of mass picketing, threatening of employees, obstructing streets and highways, or picketing homes. We have held that the state still may exercise 'its historic powers over such tradi-onally local matters as public safety and order and the use of streets and highways.' Allen-Bradley Local, U.E.R.M.W. v. Wisconsin Employment Relations Board*, 315 U.S. 740, 749, 86 L. ed. 1154, 1164, 62 S. Ct. 820. (Our italics.)

Still more recently, in *United Workers v. Laburnum Corp.* (1954), 347 U.S. 656, 98 L. Ed. 1025, the court repeated the language just quoted from the *Garner Case*, against giving credit to *Allen-Bradley*.

[Vol. 37] And most recently, on March 28, 1955 in *Weber, et al. v. Anheuser-Busch, Inc.*, Sup. Ct. of the United States

Advance Sheets No. 97, in setting aside a state court's injunction against picketing and commenting on the nature of the picketing and the law applicable to it, the court said:

". . . We do not read this as an unambiguous determination that the IAH's conduct amounted to the kind of mass picketing and overt threats of violence which under the *Allen-Bradley Local* case give the state court jurisdiction. . . ."

In the case before us the picketing and other union measures are of the precise kind that they were in the *Allen-Bradley* strike. It was held there that the state's jurisdiction to enjoin them was not impaired by the National Labor Relations Act. *Allen-Bradley Local* v. *Wisconsin Employment Relations Board*, *supra*. Neither age nor new legislation have withered the authority of that decision when the facts to which it applied are present, as shown by the foregoing citations. Those facts are repeated now and the action of the state prohibiting them follows that taken in the *Allen-Bradley* matter and approved upon review by the Supreme Court of the United States. We conclude that there has been no ouster of the jurisdiction of the state agencies over the conduct prohibited by the injunction.

The appellants suggest that even though the state's police power may extend to the restraint of the union actions in question here, the state may not exercise that power through the medium of Wisconsin Employment Relations Board dealing with them as unfair labor practices as defined by sec. 111.06 (2) (a and f), Stats. As we understand the argument it is that control of unfair labor practices in interstate commerce has been preempted by Congress and even though the state may deal with the activities in some other way, as crimes or what-not, it may not call them unfair practices, or attempt to deal with them as [fol. 38] such without surrendering jurisdiction over them to the National Labor Relations Board. There is no hint of this in the *Allen-Bradley* opinion or in the *Briggs & Stratton* opinion, supra, where, with the approval of the Supreme Court of the United States the state exercised what the federal court recognized as the state's police power through

the medium of the state's Employment Relations Board. One must recognize, also, that the National Labor Relations Board is the creature of a statute and Congress alone confers jurisdiction, whether concurrent or exclusive, on it. If, as the United States court has held, as already noted, Congress did not give the National Board exclusive jurisdiction over the union activities involved here, that Board does not acquire such jurisdiction over them by reason of state action nor, particularly, because a state statute defines as state unfair labor practices conduct which is illegal also on other grounds. We consider Wisconsin is at liberty to use its own legislative discretion in its method of policing such labor relations as these which do not fall within the exclusive jurisdiction conferred by Congress on the National Labor Relations Board.

Next, appellants submit that even if the Wisconsin Employment Relations Board could take jurisdiction of this controversy, make the findings and conclusions which it made, and issue the order commanding the appellants to cease and desist, the circuit court had no jurisdiction to entertain the Board's petition for an enforcement order unless, first, some proceeding was had which established that the Board's order had been disobeyed. The record does not show any such proceeding here. The Board simply went to the circuit court with a petition alleging the appellants' disobedience. But we find no statutory requirement of a jurisdictional pre-requisite such as appellants assert. [fol. 39] Sec. 111.07, Stats., so far as material to the contention, provides:

"(7) If any person fails or neglects to obey an order of the board while the same is in effect the board may petition the circuit court of the county wherein such person resides or usually transacts business for the enforcement of such order and for appropriate temporary relief or restraining order and shall certify and file in the court its record in the proceedings, including all documents and papers on file in the matter, the pleadings and testimony upon which such order was entered, and the findings and order of the board. Upon such filing the board shall cause notice thereof to be served upon such person by mailing a copy to his last known post-office address, and thereupon the court shall have

jurisdiction of the proceedings and of the question determined therein. . . ."

The statute does not expressly require the board to hold a hearing to determine if its order has been violated, nor is the hearing required by implication. A mere administrative decision that the order is not obeyed is sufficient. If the board is satisfied that a violation has taken place it may petition the court for enforcement and shall file its record with the court and give notice, upon which the statute gives the court jurisdiction. These requirements were complied with. We consider that thereby jurisdiction of these proceedings was in the circuit court.

Finally, appellants contend that the evidence does not support the Board's findings. We have read the record. Numerous witnesses, whom it was the right of the Board to believe, testified to the acts of mass picketing, blocking the entrances of the plant, interference with the use of public streets, picketing of homes and intimidation of employes who proposed to work. Exhibits in the way of union publications confirm much of such testimony. Credible and competent evidence in abundance is recorded to support [fol. 40] each of the findings of fact. Sec. 111.07 (7), Stats., declares, then, that such findings shall be conclusive in the circuit court proceeding.

Appellants' brief asserts that the Kohler Company has in its plant a supply of clubs, guns and tear gas, and they submit that it is unjust for the state agencies to restrain the actions of appellants while doing nothing about that. If the condition mentioned by appellants is true, still it has nothing to do with the questions which their brief states are those to be determined by the appeal, namely, (1) the jurisdiction of the Wisconsin Employment Relations Board and the circuit court, and (2) whether the record supports the judgment. If the appellants considered, or do now consider, the presence of these munitions wrongful, as an unfair labor practice, they could, and still can petition the Board for its abatement, exactly as the Kohler Company petitioned for relief from what it deemed to be unfair labor practices on the part of appellants. In the absence of such a petition the question of a Kohler arsenal was not before the Board or the court. In any event, a Board order on that subject would not affect the one actually

made concerning *appellants'* activities. We do not presume to say now that the company may or may not have these articles in its plant but we observe that if wrongs on each side are the subject of petitions by the parties aggrieved both wrongs should be restrained. The absence of a petition concerning one of them does not require that restraint of the one which was protested in the manner and form provided by statute be refused.

In summary, the evidence presented to the Employment Relations Board supports the Board's findings, conclusion and order; the Board had jurisdiction to entertain the pro-
[fol. 41] ceeding before it; and the circuit court had jurisdiction to entertain and to grant the petition of the Board for an enforcement order. No abuse of jurisdiction appears. Therefore the judgments of the circuit court must be affirmed.

By the Court.—Judgments affirmed.

[fol. 42] IN SUPREME COURT OF WISCONSIN

No. 240

WISCONSIN EMPLOYMENT RELATIONS BOARD, Respondent

vs.

UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, ETC., ET AL., Appellants

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No. 277

UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, ETC., ET AL., Appellants

vs.

WISCONSIN EMPLOYMENT RELATIONS BOARD, ET AL., Respondents

ORDER DENYING MOTION FOR REHEARING—June 28, 1955

The Court being now sufficiently advised of and concerning the motion of the said appellants, for a rehearing in these causes, it is now here ordered that said motion be, and the same is hereby, denied without costs.

[fol. 43] IN SUPREME COURT OF WISCONSIN

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed Sept. 23, 1955

I

Notice is hereby given that United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, UAW-CIO, one of the appellants above-named, hereby appeals to the Supreme Court of the United States from the final judgment of the Supreme Court of Wisconsin entered on the 28th day of June, 1955, affirming the judgments of the Circuit Court for Sheboygan County confirming and enforcing in No. 240 the order of the Wisconsin Employment Relations Board entered May 21, 1954, and denying in No. 277, the petition of appellants to review and set aside the said order of the Wisconsin Employment Relations Board.

This appeal is taken pursuant to 28 U.S.C.A. Section 1257, subsection (2).

[fol. 44] II

The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States, and include in said transcript, the following:

1. The printed record on the appeals to this Court. (Appendix)
2. The opinion and judgment of this Court.
3. This notice of appeal.

III

The following question is presented by this appeal:

Whether the State of Wisconsin may regulate conduct of a labor organization affecting interstate commerce

which has been made an unfair labor practice under the National Labor Relations Act, as amended.

Harold A. Cranefield, Attorney for United Automobile, Aircraft & Agricultural Implement Workers of America, CIO, Appellant, 8000 E. Jefferson, Detroit 14, Michigan

Max Raskin, Attorney for Appellants, 1801-5 Wisconsin Tower, Milwaukee, Wisconsin

William Quick, David Rabinovitz, Kurt L. Hanslowe, Redmond H. Roche, Jr., Of Counsel

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[fol. 45] Service of Notice of Appeal (omitted in printing)

[fol. 46] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 47] Supreme Court of the United States

Order Noting Probable Jurisdiction—January 30, 1956

Appeal from the Supreme Court of the State of Wisconsin.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

January 30, 1956.